

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7645

Petition of Cross Pollination, Inc., for a certificate of )  
public good, pursuant to 30 V.S.A. Section 248, )  
authorizing the construction and operation of a 2.2 MW )  
solar electric generation facility, consisting of 22 rows of )  
rack-mounted photovoltaic panels approximately 10 feet )  
in height, on the eastern side of Route 7 in the Town of )  
New Haven, Vermont )

Order entered: 9/8/2011

**SECOND ORDER RE MOTION FOR RECONSIDERATION**

On July 18, 2011, Mr. John Madden filed a Motion to Alter or Amend, pursuant to V.R.C.P. 59, asking the Public Service Board ("Board") to reconsider its final Order in this docket, dated July 8, 2011. The petitioner, Cross Pollination, Inc., filed a response on August 4, in which it notes that V.R.C.P. 59 and 60 give a Vermont court wide latitude to correct mistakes, to consider newly discovered evidence, and to otherwise amend a final judgment as justice may require, but is not a procedural device for re-arguing positions that were rejected in the Board's Order. On August 10, 2011, the Board issued an Order denying Mr. Madden's motion to reconsider.

On August 17, 2011, Mr. Madden filed what he labeled as an "Addendum to Motion to Correct Judgement." The Addendum, like the original Motion, is little more than a recitation of a few legal points that are not in dispute, and a review of Mr. Madden's positions in this docket.

Mr. Madden's intended purpose in filing the "Addendum" is unclear. If it truly is intended to be an addendum to his July 18 motion, then it is untimely, given that the Board has already ruled on that motion. If the "Addendum" is intended to seek reconsideration of the Board's August 10 Order, then it is hereby rejected as insufficient, pursuant to Board Rule 2.208. The "Addendum," which fails to include any explanation or analysis to support a reconsideration

request, is insufficient as a motion because it is not accompanied by a brief or memorandum of law, as required by Board Rule 2.206.

Mr. Madden was permitted to intervene in this docket on the various issues of aesthetics and orderly development.<sup>1</sup> A party who intervenes in a Board docket should not unduly delay the proceeding and, if they do, then the Board has authority to condition their participation as the interests of justice and economy of adjudication require.

Since the filing of a motion for reconsideration may work to toll the period for filing an appeal to the Vermont Supreme Court, the repeated filing of such motions, or of "Addendums" to such motions, only serves to confuse the issue of the finality of our Order. This confusion does nothing to promote the interests of justice.<sup>2</sup> The Board will, therefore, pursuant to Board Rule 2.209(C), require that, if Mr. Madden wishes to make any additional filing with the Board in connection with this matter (other than a notice of appeal subject to the Rules of Appellate Procedure), such filing must be made by and through an attorney licensed in the State of Vermont and subject to Vermont Rule of Civil Procedure Rule 11. No further *pro se* filings in this proceeding will be accepted by the Clerk of the Board.

**SO ORDERED.**

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1. Procedural Order issued 9/8/10.

2. Board Rule 2.209(C) provides that:

Where a party has been granted intervention, the Board may restrict such party's participation to only those issues in which the party has demonstrated an interest, may require such party to join with other parties with respect to appearance by counsel, presentation of evidence or other matters, or may otherwise limit such party's participation, all as the interests of justice and economy of adjudication require.

Dated at Montpelier, Vermont, this 8<sup>th</sup> day of September, 2011.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: September 8, 2011

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*